
ENGROSSED

SENATE BILL No. 445

DIGEST OF SB445 (Updated February 17, 1998 7:21 pm - DI 75)

Citations Affected: IC 36-7.

Synopsis: Agricultural nonconforming uses. Provides that an agricultural nonconforming use of land that began before a comprehensive plan or zoning ordinance came into effect may continue if the landowner maintained the nonconforming use for any three year
(Continued next page)

Effective: July 1, 1998.

**Wolf, Nugent, Ford, Hume,
Jackman, Young, Landske, Lewis,
Lawson, Paul, Waterman,
Weatherwax**

(HOUSE SPONSORS — LEUCK, FRIEND)

January 13, 1998, read first time and referred to Committee on Agriculture and Small Business.

January 22, 1998, amended, reported favorably — Do Pass.

January 27, 1998, read second time, amended, ordered engrossed.

January 28, 1998, engrossed.

January 29, 1998, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Agriculture and Rural Development

February 12, 1998, reported — Do Pass.

SEA 445+



Digest Continued

period in a five year period. Provides that a county or municipality may not restrict an agricultural nonconforming use. Provides that an owner of land used for an agricultural nonconforming use is not required to obtain any of the following for the use of the land: (1) A variance. (2) A special exception. (3) A special use. (4) A contingent use. (5) A conditional use. Provides that an owner of land that is located in a historic area in Marion County and used for an agricultural nonconforming use is not required to obtain the following: (1) A special exception. (2) A special use. (3) A contingent use. (4) A conditional use. (5) A work permit. (6) certificate of appropriateness from the Marion County historic preservation commission.

C
o
p
y

SEA 445+



Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE ENROLLED ACT No. 445

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-7-4-616 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 616. (a) As used in this section, "nonconforming use land" means land that satisfies both of the following:**

(1) The land is agricultural land that is used contrary to a comprehensive plan or zoning ordinance established for the area where the land is located.

(2) The land was used for agricultural purposes before the adoption of a comprehensive plan or zoning ordinance for the area where the land is located.

(b) Land remains as nonconforming use land as long as the land is used for agricultural purposes for any three (3) year period in a five (5) year period.

(c) A county or municipality may not do any of the following:

(1) Terminate an agricultural nonconforming use on nonconforming use land as long as the agricultural nonconforming use has been maintained for at least any three

SEA 445+



(3) year period in a five (5) year period.

(2) Restrict any agricultural nonconforming use on nonconforming use land.

(3) Require an owner of nonconforming use land to obtain any of the following for the use of the land for agricultural purposes:

(A) A variance for the land.

(B) A special exception for the land.

(C) A special use for the land.

(D) A contingent use for the land.

(E) A conditional use for the land.

SECTION 2. IC 36-7-11.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. (a) **Except as provided in section 13.1 of this chapter**, any building, structure, or land use in existence at the time of the adoption of the historic preservation plan that is not in conformity to or within the zoning classification or restrictions or requirements or architectural standards of this plan, shall be considered to be a nonconforming use and may continue, but only so long as the owner or owners continuously maintain this use.

(b) **Except as provided in section 13.1 of this chapter**, in addition to the requirements pertaining to certificates of appropriateness, the ownership of a nonconforming use is subject to the additional restriction that a nonconforming use may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty percent (50%) of the market value thereof unless the structure is changed to a conforming use.

SECTION 3. IC 36-7-11.1-13.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13.1. (a) **As used in this section, "nonconforming use land" means land that satisfies both of the following:**

(1) The land is agricultural land that is used contrary to a comprehensive plan or zoning ordinance established for the area where the land is located.

(2) The land was used for agricultural purposes before the adoption of a comprehensive plan or zoning ordinance for the area where the land is located.

(b) Land remains as nonconforming use land as long as the land is used for agricultural purposes for any three (3) year period in a five (5) year period.

(c) A county or municipality may not do any of the following:



- (1) Terminate an agricultural nonconforming use on nonconforming use land as long as the agricultural nonconforming use is maintained for at least any three (3) year period in a five (5) year period.**
- (2) Restrict any agricultural nonconforming use on nonconforming use land.**
- (3) Require an owner of nonconforming use land to obtain any of the following for the nonconforming use land:**
 - (A) A variance for the land.**
 - (B) A special exception for the land.**
 - (C) A special use for the land.**
 - (D) A contingent use for the land.**
 - (E) A conditional use for the land.**
 - (F) A permit for work under section 8 of this chapter.**
 - (G) A certificate of appropriateness.**

C
o
p
y